TION FILED AUG 2 3 1960

No. 9 ORIGINAL

In the Supreme Court of the United States

OCTOBER TERM, [redacted] 1961

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATES OF LOUISIANA, TEXAS, MISSISSIPPI, ALABAMA AND FLORIDA, DEFENDANTS

Motion Of The States Of Louisiana, Mississippi And Alabama To File a Supplement To Their Respective Petitions For Rehearing Herein By Offering Newly Discovered Evidence, And Statement In Support Thereof.

JOE T. PATTERSON
Attorney General
State of Mississippi
Jackson, Mississippi

MacDONALD GALLION
Attorney General
State of Alabama
Montgomery, Alabama

JACK P. F. GREMILLION
Attorney General
State of Louisiana
Baton Rouge, Louisiana

No. 10 ORIGINAL

In the Supreme Court of the United States

OCTOBER TERM, 1959

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATES OF LOUISIANA, TEXAS, MISSISSIPPI, ALABAMA AND FLORIDA, DEFENDANTS

Motion Of The States Of Louisiana, Mississippi And Alabama To File a Supplement To Their Respective Petitions For Rehearing Herein By Offering Newly Discovered Evidence, And Statement In Support Thereof.

Come now the States of Louisiana, Mississippi and Alabama, through their respective Attorneys General, and move this Honorable Court to permit them leave to file a supplement to their respective petitions for rehearing herein, for the following purposes and on the grounds stated below:

I

Since the filing of their respective petitions for rehearing herein, the States of Louisiana, Mississippi and Alabama have discovered an official map published in 1844 and binding on the United States of America which is highly pertinent to the issues involved in this original action and which fully corroborates the contentions made by said States in this case; that the late discovery of said map was not occasioned by any

lack of diligence and effort theretofore made by them in their extensive search for documentary material as evidence to support their respective claims but was found quite recently in connection with another project and a record search made in pursuance thereof.

II

The States above named show that they filed their respective petitions for rehearing, timely and in full compliance with Rule 58 of the Rules of this Honorable Court; that the motion herein presented involves no new or collateral issue but, if granted, forms a part of the petitions for rehearing themselves and the subject relates back to said petitions when filed and should be so treated and considered.

III

That the map aforesaid, hereinafter to be fully described and hereunto attached and made part hereof, constitutes evidence of which this Honorable Court may take judicial notice and may and should be examined and considered in connection with the petitions for rehearing herein, even though it be called to the attention of this Honorable Court after the filing of said petitions.

IV

The States herein named respectfully suggest to this Honorable Court that the granting of this motion and consideration given to the annexed exhibit and statement made in connection therewith, adds material

substance to the issues involved in this case, but without altering them, justifiably permits said States to present their contentions adequately, and promotes equity and justice.

For all the foregoing reasons, appearers pray that their motion be granted.

Jack P. F. Gremillion
Attorney General
State of Louisiana

Joe T. Patterson
Attorney General
State of Mississippi

MacDonald Gallion
Attorney General
State of Alabama

August_____, 1960

STATEMENT IN CONNECTION WITH MAP OFFERED AND THE EFFECTS OF SUCH OFFERING

The Act of September 2, 1789, c. 12, Sec. 2, 1 Stat. 65, established the duties of the Secretary of the Treasury, one of which was to "make report and give information to either branch of the legislature in person or in writing, as may be required, respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office." See 5 U.S.C. 242.

The Commissioner of the General Land Office, later placed in the Department of the Interior, was

originally an officer in the Treasury Department by reason of Act of April 25, 1812, c. 68, 2 Stat. 716. It was his duty to survey the public domain. He was the officer of the government primarily charged with knowing and reporting what area formed a part of the United States. The Commissioner of the General Land Office submitted his annual report in December, 1844 and prepared a plat showing the territorial limits of the United States, all of which was submitted by the Secretary of the Treasury to the Second Session of the 28th Congress in 1844, as Senate Document No. 7. Two photostatic copies of the map duly certified by the archivist of the United States on August 8, 1960 are filed herein and copies thereof are attached hereto. This map shows the water boundaries in the Gulf of Mexico established by the Treaty of 1803 with France and the Treaty of 1819 with Spain, which constitute the seaward limits of the Nation and of the Gulf Coast states at least for domestic purposes.

The Court will observe that the map refers to **territorial** limits. The map clearly shows by dotted or dashed lines the limits established by the treaty made between the United States and France in 1803, and the treaty between the United States and Spain in 1819, by which the territorial limits of Louisiana, Mississippi, Alabama and Florida were established or recognized.

Louisiana has asserted that the Louisiana Purchase included a territorial sea encompassing a water boundary not less than three leagues from coast, and that the United States intended to acquire and did

acquire a territorial sea by its purchase of Louisiana from France. The map shows a water boundary for Louisiana as a result of the Louisiana Purchase in keeping with Louisiana's argument. Louisiana, Mississippi and Alabama have asserted that as a result of the Treaty of Amity with Spain in 1819, the United States and Louisiana, Mississippi and Alabama acquired the seaward limits of a territorial sea theretofore claimed by Spain. The map shows that off the coast of Louisiana, the territorial limit acquired from France is coincident with that acquired from Spain; and as the Court has found in this case, Spain claimed three leagues. The map shows a seaward boundary in the Gulf of Mexico for Florida, Alabama, Mississippi and Louisiana.

Louisiana has asserted that the Treaty of 1819 with Spain formed the basis of the boundary between Louisiana and Spain at the Southwest corner of the United States which necessarily became the common boundary of Louisiana and Mexico and later the common boundary of Louisiana and Texas, and that this boundary did not stop at the mouth of the Sabine River, but extended into the sea at the mouth of the Sabine River for a distance of three leagues from coast. This map corroborates this contention to the extent of showing that the western boundary line of Louisiana did not stop at the mouth of the Sabine, but on the contrary continued a substantial distance into the Gulf of Mexico and that the southern boundary was a substantial distance seaward.

This map does not show Texas as a State for it had not then been admitted to the Union. Neither does the name of Texas appear as a republic or in any other way. But the States of Florida, Alabama, Louisiana and Mississippi are clearly shown thereon with a water boundary around them. The Attorney General of Texas fairly stated to this Court in oral argument that when the Texas boundary act of 1836 was drawn, fixing its water boundary at three leagues from land, starting at a point in the sea at the mouth of the Sabine River, the Texas Congress did so in the light of the fact that the United States boundary and the Louisiana boundary was already there.[1]

The boundary act itself corroborates the statement made by Attorney General Wilson of Texas as

---

[1]"When the Congress of Texas sat down in 1836, in December, to pass that Act, it was looking at several things. The thing that they were most conscious of was the treaty between Spain and the United States in 1819, which fixed the boundary between Texas and Louisiana, and it called it to commence 'on the Gulf, at the mouth of the Sabine, in the sea.' So the first thing they had to consider was that the boundary called to commence in the sea.

"Now, the second thing they had to look at was that in 1811 and 1812 the State boundary of Louisiana had been fixed by an Act of Congress, first carving out the territory and then admitting the State.

"And so they looked at that description, which was a matter of law. And that description called to commence at the mouth of the Sabine, goes around Louisiana, and called for 'all islands within three leagues.'" Page 171-172, Argument, October 13, 1959.

in so many words it established that its point of beginning was at the end of "THE LINE ESTABLISHED BY THE UNITED STATES AND SPAIN IN 1819". This map confirms Mr. Wilson's argument; it confirms the statement in the boundary act of Texas, for it shows beyond any doubt that the Commissioner of the General Land Office, the Secretary of the Treasury, and the Congress of the United States in 1844, prior to the admission of Texas, considered the southwest corner of the United States and of Louisiana to be a considerable distance into the sea at the mouth of the Sabine River. When the State of Texas was admitted into the Union in 1845, its southeastern boundary in the Gulf of Mexico was delineated in accordance with the line configurated on the map. **This map unquestionably shows a territorial sea for each of these states.** The Court has recognized that the territorial sea customarily claimed by Spain was three leagues. The map shows the same line of the territorial sea claimed by the United States for Louisiana as the result of its purchase from France. No measurement is shown on the map and no scale appears on it, but that the line extends at least three leagues into the sea is unmistakable, and **this three league distance** is the measurement which this Court has found to exist as concerns the States of Texas and Florida.

The Court has found that when Congress received, without objection, a new constitution adopted by Florida to regain admission to Congress of its Senators and Representatives after the war between the States, this

was a sufficient recognition by Congress of the boundaries declared therein.

Surely the Court will now find that **when the Congress received without objection a report from properly constituted federal authorities for the very purpose of officially showing, pursuant to the mandate of the Congress itself, the boundaries of the States and Nation, showing a continuous water boundary for Florida, Alabama, Mississippi and Louisiana, this, too, is a sufficient recognition of such boundaries.**

We regret that this map had not been discovered by us prior to this time for we confidently believe that if it had been presented to the Court in October, 1959, the Court would have recognized that the water boundaries of those States are and always have been at least three leagues from coast.

Respectfully submitted,

JOE T. PATTERSON
Attorney General of Mississippi
Jackson, Mississippi

JOHN PATTERSON
Governor of Alabama

ROBERT P. BRADLEY
Legal Advisor to
John Patterson
Governor of Alabama

WILLIAM C. YOUNGER
Director of Department
of Conservation
Care of State Capitol
Montgomery, Alabama
Of Counsel

MacDONALD GALLION
Attorney General of Alabama
Montgomery, Alabama

GORDON MADISON
Assistant Attorney General
State of Alabama

WILLIAM G. O'REAR
Assistant Attorney General
State of Alabama

NICHOLAS S. HARE
Assistant Attorney General
State of Alabama

WILLARD W. LIVINGSTON
Assistant Attorney General
State of Alabama

E. K. HANBY
Special Assistant
Attorney General
403 Neejin Building
Gadsden, Alabama

HUGH M. WILKINSON
MORRIS WRIGHT
JAMES R. FULLER
MARC DUPUY, JR.
FRANK ELLIS
Of Counsel

JACK P. F. GREMILLION
Attorney General of Louisiana
Baton Rouge, Louisiana

W. SCOTT WILKINSON
Assistant Attorney General
17th Floor, Beck Building
Shreveport, Louisiana

VICTOR A. SACHSE
Assistant Attorney General
701 Fidelity National
Bank Building
Baton Rouge, Louisiana

EDWARD M. CARMOUCHE
Assistant Attorney General
1109 Pithon
Lake Charles, Louisiana

JOHN L. MADDEN
Assistant Attorney General
State Capitol
Baton Rouge, Louisiana

BAILEY WALSH
Special Counsel
1025 Conecticut Avenue, N. W.
Washington, D. C.

PROOF OF SERVICE

I, Jack P. F. Gremillion, Attorney General of the State of Louisiana, one of the Attorneys for said State in its petition for rehearing herein, and of counsel for the states of Louisiana, Mississippi and Alabama in the foregoing motion and statement, and being a member of the Bar of the Supreme Court of the United States, certify that I have served the required number of copies of the above mentioned motion and statement with map attached, by mailing said copies to the Attorney General and Solicitor General of the United States, respectively, addressed to them at their offices in the Department of Justice Building, Washington, D. C. Said copies have been sent via air mail, postage prepaid, on August_____, 1960.

_____

JACK P. F. GREMILLION

2338-B, 8-60

THE NATIONAL ARCHIVES

To all to whom these presents shall come, Greeting:

I Certify That the annexed copy, or each of the specified number of annexed copies, of each document listed below is a true copy of a document in the official custody of the Archivist of the United States.

Records of the United States Senate,
Map of the United States without title,
referred to as document K,
"Skeleton map showing treaty limits,"
printed to accompany Senate Document 7,
Twenty-eight Congress, Second Session,
on paper and laminated (RG 46).

In testimony whereof, I, WAYNE C. GROVER, Archivist of the United States, have hereunto caused the Seal of the National Archives to be affixed and my name subscribed by the Chief Archivist, Technical Records Division of the National Archives, in the District of Columbia, this 8th day of August 1960.

Wayne C. Grover
Archivist of the United States

By Herman R. Fines